



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,218	09/21/2001	Michael E. Brown	016295.0697	4097

7590 11/22/2005

Michael R. Barre
Bakers Botts L.L.P.
One Shell Plaza
910 Louisiana
Houston, TX 77002-4995

EXAMINER

BHATIA, AJAY M

ART UNIT

PAPER NUMBER

2145

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/961,218

Applicant(s)

BROWN ET AL.

Examiner

Ajay M. Bhatia

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date: 20051109
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Arguments

Applicant's arguments filed August 25, 2005 have been fully considered but they are not persuasive.

Applicant's representative in response to 102 rejection, discusses Kick-Start utility. Further applicant's representative discusses that Kick-Start utility differs from the present invention in that "user input" is the insertion of a disk and that the user input it is considered "user input" regardless of what is present on the disk. Additionally applicant's representative also describes "user input" also including the pressing of a power button or reset button. Also the applicant's representative accept that the Kick-Start utility make use of a disk, and at present applicant's representative does include any limitation the prevents the of the disk as a "user input". Secondly applicant's representative discusses that the administrator must visit the machine and note the MAC address or service tag of each machine, but applicant's representative fails to describe how this differs from his disclosed invention. Applicant representative further describes an advantage of the invention disclosed in the specification is that the operating system is not required for operation.

In response to arguments addressing 102 rejection, applicant fails to overcome the rejection. Applicant's representative from the arguments presented is aware of the features that overcome the 102(b) rejection, has failed to claim them. Applicant's representative argues that user input is a disk insertion regardless of it contents, but

fails to claim this feature in any form in the independent claim or dependent form.

Additionally applicant's representative argues that an operating system is not required to operate the system, but this feature too is also not claimed in independent or dependent form. Applicant has submitted an IDS with additional references, which does not clarify the record. Two the references are submitted without any date information therefore the examiner cannot make any assumption about the information is therefore not persuaded. In reference to the document "P" on the prior IDS this provides no additional information, it just shows a devices that is on sale prior to filing of the application. The last submitted IDS contains "Dell Unveils Appliance Server to Power Internet Infrastructure" an April 5, 2000 also fails to differentiate from the claimed invention. This document just clearly states that the Kick-Start utility was on sale to the public more then 1 year before the filing of the present application. Therefore the rejection stands because the Kick-Start utility was on sale more then a year before the filing of the application and Kick-Start utility anticipates the invention disclosed in the claims. Also the examiner must request any additionally information that clearly differentiates how the current invention differs from the Kick-Start utility, because the present submitted documentation does not clarify the record (should be submitted with date so that the documents can be evaluated).

Applicant's representative in response to the prior art 103 rejection discusses the art of rejection, which fails to persuade the examiner the claimed invention overcomes the rejection of record. Applicant representative makes four assertions: Blumenau fails to

teach a "cluster controller," Blumenau fails to teach "receiving user input from a first host" and "in response to receiving the user input from a first host," Foster fails to teach "after associating a first host name with the UID, causing the first host to produce a completion signal" and the combination of Blumenau and Foster do not yield the same invention. Additionally applicant's representative make a cursory response to rejection to the combination of Blumenau, Foster and Nixon, that claims rejected by the combination are also allowable based on the prior assertions.

In response to applicant's first argument addressing the 103 rejection, the applicant in the specification describes the "cluster controller" on page 8 of the specification beginning on line 11. At present that specification does not clear define a "cluster controller," it merely describes a "cluster controller." Therefore the examiner is limited to the broadest possible interpretation of the claim limitation. Should the applicant wish to claim any of the features disclose on 8 of the specification the applicant should include those limitation in the claims. As can be seen Col. 23 lines 31-46 of Blumenau, Bluemenau teaches a cluster controller.

In response to applicant's representative 2nd argument addressing 103 rejection. Applicant has argued "user input," applicant's representative has intentionally left this limitation broad and therefore the examiner interprets the limitation as broadly as possible. Should applicant want a more specific interpretation of the claim the applicant should include those limitations. The "user input" is the insertion of a disk or pressing

Art Unit: 2145

of a button according the applicant's representatives arguments, should those applicant what consideration of those limitation, applicant's representative should include those limitations.

In response to applicant's representative 3rd argument addressing 103 rejection.

Applicant is arguing the completion signal generated by Foster. Foster discloses a subroutine that signals a completion signal with the use of an interrupt. An interrupt is a well known feature of programming, as can be seen by the provided document included in the 892. Interrupts occur at the prompting of computer program or are automatically called as in Foster on the change in the current operating condition of Foster.

Additionally the same subroutine used of a interrupt can be shared by multiple interrupts. At present the applicant's discusses Foster in general term, which cause confusion. Foster teaches a completion signal and the interrupt inherently teaches on the change the subroutine of the completion signal will be called.

In response the applicants' representative 4th argument addressing the 103 rejection.

Applicant's representative argument is based upon the prior 3 arguments, which the examiner has responded to. Therefore 4th argument does not provided any additional reasoning of how the currently claimed application overcomes the prior art of the current application. It is clear from the applicant's representative arguments that the limitations disclosed in the claim does not clearly disclose the same invention that the applicant's representative discusses in the arguments. Examiner suggest that applicant include

those limitation the in claim language so that examiner is able to evaluate the intended invention, and not a broad interpretation. It is also clear from the argument that the applicant's representative is aware of the novel and unique features of the current applicant, but has elected to not include theses limitation, examiner suggest applicant's representative reconsider and include these limitation to further prosecution of the case.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows: Design and operational information for PowerApp Kick-Start Utility and claimed invention if it is different (flow charts, code, and step by step explanation of how the program operates (Also a demonstration of the operation of the claimed invention and PowerApp Kick-Start Utility may help)) beyond what has currently been provided with the current response, which should also include date of the documentation.

Art Unit: 2145

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

Claims 1-21 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. (See MPEP 2133.03(e) and 1504.02)

The dell webpage retrieved (retrieved on) using the Way-Back-Machine an Internet archive, is treated as evidence of Intent to Offer for Sale, since prices for purchase are provided for device contained the claimed invention. (see Akron Brass Co. v. Elkhart Brass Mfg. Co., 353 F.2d 704, 709, 147 USPQ 301, 305 (7th Cir. 1965) and distribution of price quotations (Amphenol Corp. v. General. Time Corp., 158 USPQ 113, 117 (7th Cir. 1968))). In addition to document collected from the archive, document

Intent

"When sales are made in an ordinary commercial environment and the goods are placed outside the inventor's control, an inventor's secretly held subjective intent to experiment,' even if true, is unavailing without objective evidence to support the contention. Under such circumstances, the customer at a minimum must be made aware of the experimentation." LaBounty Mfg., Inc. v. United States Int 'l Trade Comm 'n, 958 F.2d 1066, 1072, 22 USPQ2d 1025, 1029 (Fed. Cir. 1992) (quoting Harrington Mfg. Co. v. Powell Mfg. Co., 815 F.2d 1478, 1480 n.3, 2 USPQ2d 1364, 1366 n.3 (Fed. Cir. 1986); Paragon Podiatry Laboratory, Inc. v. KLM Labs., Inc., 984 F.2d 1182, 25

Art Unit: 2145

USPQ2d 1561 (Fed. Cir. 1993) (Paragon sold the inventive units to the trade as completed devices without any disclosure to either doctors or patients of their involvement in alleged testing. Evidence of the inventor's secretly held belief that the units were not durable and may not be satisfactory for consumers was not sufficient, alone, to avoid a statutory bar.). (see MPEP 2133.03(e)(2))

For claims 1-21, the limitation of the claimed invention are taught explicitly in the sighted documentation in the 892 which describe the Dell PowerApp.web and any feature not clearly taught are inherent to the Dell PowerApp.web device. Installation Guides, and Setup and Information Updates provide information as to the functionality and operation of the Dell PowerApp.web. In addition comment posted buy users to a dell listserv indicate that the device on sale is the same as the invention disclosed in the application for patent.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 3, 5, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blumenau (U.S. Patent 6,631,442) in view of Foster et al. (U.S. Patent 6,378,068 referred to as Foster).

For claim 1, Blumenau teaches, a method for automatically naming hosts in a distributed data processing system, the method comprising:

receiving a unique identifiers identifier (UID) at a cluster controller from each of a plurality of hosts in communication with the cluster controller; (See Blumenau, Col. 23 lines 31-46)

receiving user input from a first host among the plurality of hosts; (See Blumenau, Col. 22 lines 54-60)

in response to receiving the user input from the first host, associating a first host name with the UID for the first host; (See Blumenau, Col. 22 lines 54-67)

receiving user input from a second host among the multiple hosts; and (See Blumenau, Col. 22 lines 54-60)

repeating the operations of receiving replies from hosts, associating host names with UIDs, until each of the multiple hosts has been named, such that the user input dictates the order in which host names are assigned to the multiple hosts. (See Blumenau, Col. 22 lines 54-60, it is inherent from the disclosure that since devices are name upon access order is dictated by the order that user access the devices)

Blumenau fails to teach, in response to receiving the UIDs, causing the plurality of hosts to produce ready signals;

after associating the first host name with the UID for the first host, causing the first host to produce a completion signal;

and causing hosts to produce completion signals,

Foster teaches, in response to receiving the UIDs, causing the plurality of hosts to produce ready signals;

after associating the first host name with the UID for the first host, causing the first host to produce a completion signal;

and causing hosts to produce completion signals, (see Foster, Col. 52 lines 8-21, it is clear from the disclosure that a signal is produced upon accessing of the device and that signal is completed upon the end of the accessing of the device)

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the naming system of Blumenau with the computer chip apparatus of Foster it is well known in the art that microprocessors sub components of larger computer systems and that the use of Foster's microprocessor provides increase functionality of when communicating with host and increased performance for power management as in laptops. (see Foster, Col. 1 lines 17-30) and (See Blumenau, Col. 2 lines 27-43)

For claim 2, Blumenau-Foster teaches, the method of claim 1, wherein the operation of associating a first host name with the UID for the first host comprises:

in response to receiving the user input from the first host, transmitting data to the first host; and (See Blumenau, Col. 22 lines 59-67)

Art Unit: 2145

after transmitting the data to the first host, receiving a reply from the first host, such that the first host name is associated with the UID for the first host in further response to the reply. (See Blumenau, Col. 23 lines 25-39)

The same motivation that was utilized in the rejection of claim 1, applies equally as well to claim 2.

For claim 3, Blumenau-Foster teaches, the method of claim 2, further comprising: providing the cluster controller with a host-name index, wherein: (See Blumenau, Col. 23 lines 25-39 and lines 53-62)

the operation of transmitting data to the first host comprises transmitting the host-name index to the first host; (See Blumenau, Col. 22 lines 54-60)

the operation of receiving a reply from the first host comprises receiving an incremented host-name index from the first host; and (See Blumenau, Col. 23 lines 53-60)

the operation of associating a host name with the UID for the first host comprises using the host-name index to generate the host name to be associated with the UID for the first host. (See Blumenau, Col. 22 lines 54-60 and Col. 23 lines 25-39)

The same motivation that was utilized in the rejection of claim 2, applies equally as well to claim 3.

For claim 5, Blumenau-Foster teaches, the method of claim 1, wherein the operation of causing the multiple hosts to produce ready signals comprises activating light emitting

Art Unit: 2145

diodes (LEDs) on the multiple hosts to indicate that the multiple hosts are ready to be named. (See Foster, Col. 52 lines 8-14)

The same motivation that was utilized in the rejection of claim 5, applies equally as well to claim 1.

For claim 7, Blumenau-Foster teaches, the method of claim 1, wherein the operation of causing the first host to produce a completion signal comprises deactivating a light emitting diode (LED) on the first host. (See Foster, Col. 52 lines 14-21)

The same motivation that was utilized in the rejection of claim 5, applies equally as well to claim 1.

For claim 8, Blumenau-Foster teaches, the method of claim 1, wherein the operation of causing the first host to produce a completion signal comprises producing

Blumenau-Foster fail to teach, an audible signal to indicate that the first host has been named.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to replace the LED of the Blumenau-Foster system with a speaker in order to provide an audio based feed back because an LED may not be properly visible in a low light environment and/or to help users with poor or no vision.(see Foster Col. 70 lines 33-46)

Claims 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, and 21 list all the same elements of claims 1, 2, 3, 5, 7, and 8, but in apparatus and system form rather than method form.

Therefore, the supporting rationale of the rejection to claims 1, 2, 3, 5, 7, and 8 applies equally as well to claims 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, and 21.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blumenau-Foster as applied to claims 1, 2, 3, 5, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, and 21 above, and further in view of Nixon et al. (U.S. Patent 6,098,116 referred to as Nixon).

For claim 4, Blumenau-Foster teaches, the method of claim 2, further comprising:
providing the cluster controller with a host-name index and a host-name root; and (See Blumenau, Col. 23 lines 25-39)
causes the multiple hosts to transmit the UIDs to the cluster controller; (See Blumenau, Col. 22 lines 54-60)
receives the index in the data from the cluster controller, increments the index, and transmits the incremented index to the cluster controller in the reply; and (See Blumenau, Col. 23 lines 7-10 and lines 53-60)
the operation of associating a host name with the UID for the first host

Art Unit: 2145

comprises using the host-name root and the host-name index to generate the host name to be associated with the UID for the first host. (See Blumenau, Col. 23 lines 25-39)

Blumenau-Foster fails to teach, providing the multiple hosts with auto-naming logic, wherein: and the auto-naming logic

Nixon teaches, providing the multiple hosts with auto-naming logic, wherein: and the auto-naming logic (See Nixon Col. 31 line 54 to Col. 32 Line 20)

It would be obvious of one of ordinary skill in the art at the time of the invention to combine the system of Blumenau-Foster with the method of Nixon because Nixon provides for programming field devices from a remote location removing the need to be at the location of the field device. (See Nixon Col. 2 line 2 to Col. 3 line 3) and (See Blumenau, Col. 2 lines 61 to Col. 3 line 3) and (see Foster, Col. 1 lines 17-30)

Claims 6, 13, and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Blumenau-Foster as applied to claims 1, 2, 3, 5, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, and 21 above, and further in view of Gussin (CD-ROM Professional, August 1, 1995, Volume, 8, Issue 8).

Art Unit: 2145

For claim 6, Blumenau-Foster fails to teach, the method of claim 1, wherein the operation of receiving user input from the first host comprises detecting that a disk has been inserted into a disk drive of the first host.

Gussin shows, the method of claim 1, wherein the operation of receiving user input from the first host comprises detecting that a disk has been inserted into a disk drive of the first host. (See Gussin, Paragraphs 1, 2 and 3 under the heading Autoplay)

It would be obvious of one of ordinary skill in the art at the time of the invention to combine the system of Blumenau-Foster with the methods discussed by Gussin because Gussin discusses the improvements made to the windows over current versions. (See Blumenau, Col. 3 line 7-16) and (See Gussin, Paragraphs 1-4 at the start of the article)

Claims 13 and list all the same elements of claim 6, but in apparatus and system form rather than method form. Therefore, the supporting rationale of the rejection to claims 6 applies equally as well to claims 13 and 20.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached UPSTO 892.

Art Unit: 2145

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

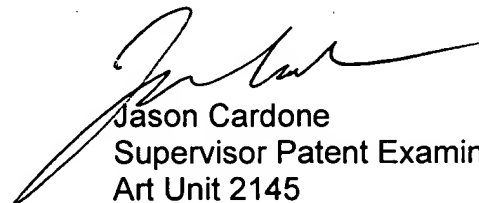
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay M. Bhatia whose telephone number is (571)-272-3906. The examiner can normally be reached on M-F 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)272-3933. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2145

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason Cardone
Supervisor Patent Examiner
Art Unit 2145

AB